

R E M A R K S

Claims 1-33 are pending, with claims 3,5,7-12, 26-29 and 31-33 having been withdrawn in view of a restriction requirement. Accordingly, claims 1, 2, 4, 6, 13-25 and 30 are still under consideration.

Of the claims under consideration, claims 13-25 have been indicated to contain allowable subject matter. Claim 13 has been rewritten in independent form herein (and has further been amended to address the 35 U.S.C. § 112 issues¹), and accordingly claim 13 and claims 14-25 variously depending therefrom are believed to be in condition for allowance.

Thus, it is believed that claims 1, 2, 4, 6 and 30 are at issue here, with all standing rejected under 35 U.S.C. §103 as being obvious over Rhodes *et al.* U.S. Patent No. 4,619,313 (hereinafter Rhodes) in view of Olson U.S. Patent No. 5,360,059 (hereinafter "Olson").

It is respectfully submitted that the Office Action has mischaracterized the teachings of Rhodes. Rhodes does not relate to a frame for mounting a heat exchanger. Rather, Rhodes discloses a frame unit which is an integral required part

¹As the Examiner recognized, the specification and claim 1 refer to a transverse side and a longitudinal side, with each such "side" being defined by a pair of sides (e.g., page 8, lines 2-3). As such, the reference to the supports being on "sides" was unclear, as the supports are shown as being on one "side", albeit on both of the pair of sides defining a "side". Claims 1 and 2 (and 13) have been amended to clarify this claim language to be consistent with the specification.

of a heat exchanger (radiator), that is, it is itself the radiator structure which surrounds the core unit. The adjustability provided by that structure is simply to allow for unequal heat expansion between the steel radiator frame and the brass core (see col. 3, lines 36-43). In short, Rhodes does not disclose a frame for supporting a heat exchanger, but rather discloses a frame which is a necessary part of a heat exchanger. Without it, there would not be a heat exchanger, but instead would be nothing more than a loose assembly of tubes and fins (with the tubes being open on each end with no header tank).

Olson does disclose a frame which is separate from the radiator it supports. However, it is clear that a frame made according to the teachings of Olson would be intended for a particular size radiator, although the elongate openings 88 in the cross members (see Fig. 7) would provide a small amount of size variance to accommodate manufacturing irregularities. If used with a different size radiator, it would require different frame components of different sizes.

By contrast, with the present invention as now recited in claim 1, at least one of the frame sides is recited as being "sufficiently adjustable in length in the direction of the side to accommodate different size heat exchangers and different size compartments".² There is nothing in either of the references which suggests

²This amended language is supported, for example, at page 7, lines 21-22 and page 10, lines 1-5.

such a structure. As noted, Rhodes does not disclose a frame such as claimed, and Olson discloses a frame which accommodates a particular size radiator. Thus, claim 1 should be allowable as presented herein.

Claims 2, 4 and 6 similarly recite the above discussed unique structure, adding further advantageous elements therefore, and thus claims 2, 4 and 6 should be similarly allowable.

Claim 30 recites a heat transfer device, comprising a frame according to claim 1, and at least two heat exchangers, each including headers on their top and bottom, where the fasteners are on top and bottom sides of the frame and fasten the frame to the heat exchanger headers. Contrary to the assertion in the Office Action, Rhodes does not disclose a frame such as recited in claims 1 and 30 as previously discussed. Moreover, the two heat exchangers (10, 10A) disclosed in Fig. 6 of Rhodes are merely two complete heat exchangers, each with their own separate frame such as disclosed in Rhodes, with those two frames merely bolted together in a side by side relationship. Again, the Rhodes frames are separate frames which are a required part of the heat exchanger, not a single frame supporting two different heat exchangers.

In view of the above, claims 1, 2, 4, 6, 13-25 and 30 are now believed to be allowable. Moreover, inasmuch as withdrawn claims 3, 5, 7-12, 26-29 and 31-33 all depend from allowable claims, these claims are believed to be allowable in this

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application as well. Therefore, early notification of the allowability of all of claims 1-33 is respectfully requested.

Respectfully submitted,

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